

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 22, 2003

To: The Commission
(Meeting of May 22, 2003)

From: Alan LoFaso, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1389 (Ridley-Thomas) Public Utilities: rights and obligations: hiring: purchases of goods and services.**
As amended May 5, 2003

Legislative Subcommittee Recommendation: Support.

Summary: This bill would make findings and declaration regarding the importance of encouraging the hiring of California residents by public utilities and require the Commission to report and publish specified information regarding California-based public utility hiring and investment.

Digest: Existing law provides that telecommunications carriers are public utilities, subject to regulation by the Commission.

Existing law, P.U. Code sec. 581 et. seq., requires public utilities to submit specified information as required by the Commission. Pursuant this article, no information furnished to the Commission by a public utility shall be open to public inspection or made public, except as specified. Any officer or employee of the Commission divulging this information is guilty of a misdemeanor. (See P.U. Code sec. 583.) Moreover, P.U. Code sec. 585 requires the Commission to establish procedures governing access to specified rate information including security of confidentiality of records, protection of proprietary information, and the privacy of customer-specific records.

Existing law, P.U. Code sec. 324.5, requires the Commission to publish non-confidential data collected for the clearinghouse for minority and women business data.

This bill would make legislative findings and declarations that inter alia, public utilities bear a heightened responsibility for contributing to the public interest in exchange for the granting of monopoly or near monopoly status to public utilities; that the public interest in the benefits of public utility employment to the state and its residents “should

be given some weight”; and that given the state’s difficult economic climate and unemployment rate, it is necessary and proper for the state to encourage the state’s public utilities to hire Californians.

This bill would provide that it is the policy of the State of California, consistent with the federal and state constitutions, for the state to exercise its proprietary role as purchaser of telecommunications goods and services and from public utilities, to promote the employment of Californians.

This bill would require the Commission to annually report to the legislative policy committees with oversight over the Commission and make available to the public via the Commission’s website the following information for each public utility:

- (a) The number of customers served in California by the public utility;
- (b) The percentage of the public utilities’ total domestic customer base that resides in California;
- (c) The number of California residents employed by the public utility, calculated on a full-time or full-time equivalent basis;
- (d) The percentage of the public utilities’ total domestic workforce, calculated on a full-time or full-time equivalent basis, that resides in California; and
- (e) The capital investments made by the public utility in California during the yearly reporting period.

Analysis: According to the author, the need for AB 1389 is related to the fact that public utilities in California have been increasingly utilizing out-of-state workers for the provision of utility services to California residents. This has a negative impact on the workforce in California and the state’s economy. In light of the significant benefits that public utilities enjoy in California for the use of the public right-of-way, a reciprocal benefit must be obtained for the residents of the state. With the increasing rates of unemployment being experienced in California, coupled with a general economic downturn, it is appropriate for the State to utilize its proprietary powers to encourage the employment of California residents by public utilities operating within the state. (Quoted from Assembly U&C Committee analysis, April 28, 2003.)

AB 1389 began as a re-introduction of AB 2467 (Goldberg) of the 2001-02 session. That bill would have enacted a state policy that mandating that only California residents perform the tasks and duties necessary for providing intrastate telephone services. This bill apparently seeks a similar goal by publishing this information regarding each utility. Clearly, the authors believe that public display of domestic hiring and investment practices will incent these utilities to keep jobs in California and thus enhance California’s economic climate.

LEGAL IMPACT

Staff analysis indicates that this bill is constitutional and that it does not offend the Commerce or Privileges and Immunities clauses or the Fourteenth Amendment of the U.S. Constitution.

FISCAL IMPACT

This bill would have modest impact on the CPUC workload, if utility data are used at face value. The cost would not be in excess of ¼ position, and would be less if the data request was bundled with current annual data gathering activities. If utility data are to be fully audited, additional staffing would be needed, potentially as high as two full-time positions.

ECONOMIC IMPACT

The ability for the state and California consumers to determine how telecommunications companies spend the labor dollars may have a positive effect on curbing the migration of jobs from California. Retaining jobs in California would benefit the state's economy in keeping labor dollars in the state.

SUGGESTED AMENDMENTS

This bill should be amended to expressly state that each public utility is required to submit the data to the Commission that it would be required to submit to the Legislature and post on its internet website.

Therefore, the bill should be amended as follows (on page 3, lines 31-36):

7912. Public utilities shall annually report to the commission the following information for each public utility and each affiliate thereof, and ~~The~~ the commission shall annually report to the Assembly Committee on Utilities and Commerce and the Senate Committee on Energy, Utilities and Communications, or successor committees, and, within a reasonable time thereafter, make available to the public on its Internet Web site, information for each public utility, showing all of the following:

LEGISLATIVE HISTORY

Assembly U.&C.: 8-4 (do pass) (4/28/03)

SUPPORT/OPPOSITION

Support: California Labor and Telecommunications Coalition
Coalition of Utility Employees
Los Angeles County Federation of Labor
San Diego - Imperial Counties Labor Council
California Teamsters Public Affairs Council
California Conference Board of the Amalgamated Transit Union
Hotel Employees & Restaurant Employees International Union
California Conference of Machinist
United Food & Commercial Workers Region & States Council
Engineers & Scientists of California, Local 20, IFPTE< AFL-CIO

Professional & Technical Engineers, Local 21, IFPTE< AFL-CIO
Communications Workers of America, AFL-CIO Local 9000
Communications Workers of America, AFL-CIO Local 9404
Communications Workers of America, AFL-CIO Local 9586
Communications Workers of America, AFL-CIO Local 9587
Communications Workers of America, AFL-CIO Local 9415
Communications Workers of America, AFL-CIO Local 9421
Communications Workers of America, AFL-CIO Local 9400
Communications Workers of America, AFL-CIO Local 9417
Communications Workers of America, AFL-CIO Local 9423
Communications Workers of America, AFL-CIO Local 9412
Communications Workers of America, AFL-CIO District 9
Utility Workers Union of America, AFL-CIO Local 132

Opposition: AT&T

California Association of Competitive Telecommunication
Companies
California Cable & Telecommunications Association
MCI/Worldcom
Verizon

LEGISLATIVE STAFF CONTACT

Alan LoFaso, Legislative Director
CPUC-OGA

alo@cpuc.ca.gov
(916) 327-7788

Date: May 22, 003

BILL LANGUAGE:

BILL NUMBER: AB 1389 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 5, 2003
AMENDED IN ASSEMBLY APRIL 22, 2003

INTRODUCED BY Assembly Member Ridley-Thomas

FEBRUARY 21, 2003

An act to add Section 12123 to the Public Contract Code, and Sections 7911 and 7912 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, as amended, Ridley-Thomas. Public utilities: rights and obligations: hiring: purchases of goods and services.

~~Under~~

(1) *Under* existing law, the Public Utilities Commission has regulatory authority over public utilities. The Public Utilities Act establishes the rights and obligations of public utilities under the jurisdiction of the commission. Existing law establishes the rights and obligations of utility corporations and their employees, and requires each electrical, gas, and telephone corporation with specified gross annual revenues, to submit annually to the commission, a detailed and verifiable plan for increasing women, minority, and disabled veteran business enterprise procurement, requires the commission to establish guidelines to be used to establish programs to achieve established goals in those plans, and requires the commission to annually report to the Legislature on progress under these programs.

This bill would provide that it is the policy of California, consistent with constitutional requirements, that the state, when exercising its proprietary role as a purchaser of goods and services from public utilities, act to promote the employment of California residents. The bill would require the commission to annually report certain information on each public utility ~~—~~ to the ~~Legislature~~ *Assembly Committee on Utilities and Commerce and the Senate Committee on Energy, Utilities and Communications, or successor committees* , and to make the information available to the public on its Internet Web site.

~~Existing~~

(2) *Existing* law provides for acquisition of telecommunications goods and services by the state under the supervision of, the Department of General Services, which has sole responsibility for the establishment of tactical policy and procedures for telecommunications and data-processing acquisitions consistent with statewide strategic policy as established by the Department of Finance.

This bill would provide that it is the policy of the state, consistent with constitutional requirements, when purchasing telecommunications goods and services, to act to promote the employment of California residents.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Public utilities serve a vital function, providing basic infrastructure essential to the efficient conduct of commerce and societal interaction.

(b) In exchange for the state's granting of public utility monopolies or near-monopolies, the public utilities bear a heightened responsibility for contributing to the public interest.

(c) The public interest has been interpreted to include providing an adequate level of public utility service at a just and reasonable rate. This interpretation has not explicitly included a consideration of the benefits of public utility employment to the state and its residents. A more complete interpretation of the public interest would give this consideration some weight.

(d) Given the difficult economic climate and the increasing unemployment rate within the State of California, it is necessary and proper state policy to encourage the employment of Californians by California's public utilities.

(e) The state, when exercising its proprietary function of purchasing goods and services, should make purchases that promote the employment of California residents and not do business with utility corporations that shift jobs outside of California.

(f) The Public Utilities Commission should monitor and annually report to the Legislature, information showing the level of employment of California residents by public utilities, so that the state can make knowledgeable proprietary decisions when purchasing utility goods and services.

SEC. 2. Section 12123 is added to the Public Contract Code, to read:

12123. It is the policy of the State of California, consistent with the federal and state constitutions, that the state, when exercising its proprietary role as a purchaser of telecommunications goods and services, act to promote the employment of California residents.

SEC. 3. Section 7911 is added to the Public Utilities Code, to read:

7911. It is the policy of the State of California, consistent with the federal and state constitutions, that the state, when exercising its proprietary role as a purchaser of goods and services from public utilities, act to promote the employment of California residents.

SEC. 4. Section 7912 is added to the Public Utilities Code, to read:

7912. The commission shall annually report to the ~~Legislature~~ *Assembly Committee on Utilities and Commerce and the Senate Committee on Energy, Utilities and Communications, or successor committees, and* , within a reasonable time thereafter, make available to the public on its Internet Web site, information for each public utility, showing all of the following:

(a) The number of customers served in California by the public utility.

(b) The percentage of the public utilities' total domestic

customer base that ~~reside~~ *resides* in California.

(c) The number of California residents employed by the public utility, calculated on a full-time or full-time equivalent basis.

(d) The percentage of the public utilities' total domestic workforce, calculated on a full-time or full-time equivalent basis, that ~~reside~~ *resides* in California.

(e) The capital investments made by the public utility in California during the yearly reporting period.